



Your Small Business May Be At Risk of IP Loss or Theft

Today, success in a global market economy depends more and more on producing and protecting intellectual property (IP) assets — products of human creativity and innovation that may be protected by laws on patents, trademarks, copyright, trade secrets and other laws. Small businesses are key drivers of the U.S. economy, and yet in many cases, they are the most vulnerable to loss of IP rights or theft of their IP.

This brochure is designed to familiarize small businesses with the critical need to protect and enforce their IP rights to maintain their competitive advantage. Practical information is presented on how to avoid loss of IP rights on how to enforce IP rights in the U.S. and overseas.

Perhaps the most fundamental IP concept is that of territoriality — a U.S. patent or trademark provides protection only in the United States. The creator of IP must secure protection in each country in which protection is desired — normally by filing an application for protection — or face a loss of IP rights.

The economic benefits of intellectual property rights have captured the attention of thieves and organized crime. Today, it has become all too common for thieves half a world away to steal a business's innovative products and even its good name — all at a cost to the rightful owner's bottom line. The first step in fighting this theft is to identify and secure protection of your IP.

Fast Facts About Intellectual Property

Patents are granted for new, useful and non-obvious inventions for a period of 20 years from the filing date of a patent application, and provide the right to exclude others from exploiting the invention during that period. The Patent Cooperation Treaty (PCT) streamlines the process for U.S. businesses wishing to obtain patent protection in other countries. By filing one international patent application, an inventor can seek protection in up to 126 countries. For more information on filing a PCT application, visit www.uspto.gov/go/pct.

Trademarks are used to identify and distinguish the source of goods or services, and may be a word, name, symbol or other device that serves this purpose. In most countries, registration is required to obtain protection. The Madrid Protocol is an international agreement that facilitates obtaining trademark protection overseas. For more information, visit www.uspto.gov/web/trademarks/madrid/madridindex.htm.

Copyright protects original works of authorship, including literary, dramatic, musical, artistic and certain other works, both published and unpublished. In the United States, the U.S. Copyright Office handles copyright registration that, although not required for protection, does confer advantages. More information can be found at www.copyright.gov.

Trade Secrets provide protection against the misappropriation of undisclosed information which has economic value and which the owner has taken reasonable steps to protect from disclosure. In the United States, trade secrets are protected under state law.

Applying for IP Protection

Whether to file for IP protection is a decision only you can make, and involves cost/benefit analysis and other business considerations. If you decide IP protection is right for you:

Know when to apply.

Whether filing in the United States or overseas, the best time to apply is before the product is brought to market. For patents, in particular, it may be important to file for protection prior to publication.

Know what to apply for.

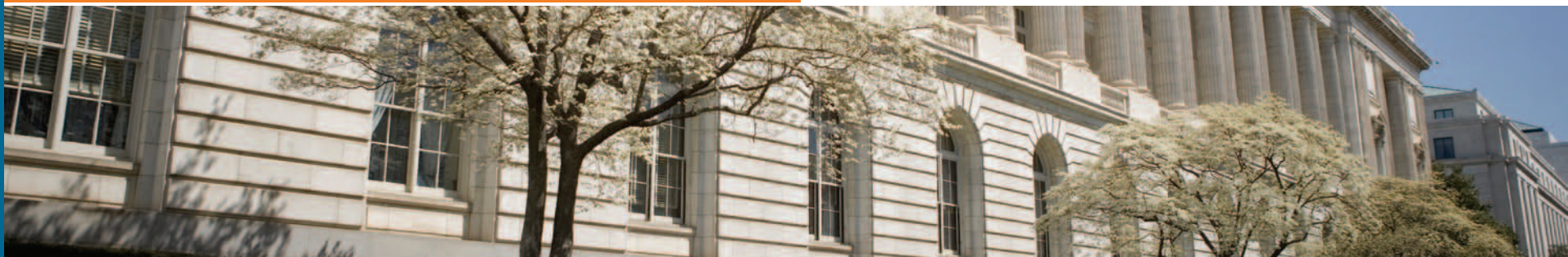
A business' product or service may be eligible for more than one type of IP protection. For example, the company name could be protected by trademark, its product patented, and its promotional materials protected by copyright. Decide which protections are right for you.

Know where to apply.

In the United States, patent and trademark applications are filed with the U.S. Patent and Trademark Office. The U.S. Copyright Office handles copyright registration.

Know how to apply.

Visit www.stopfakes.gov/smallbusiness for information on filing for patents and registering trademarks and copyrights. Applicants unfamiliar with IP law are encouraged to obtain legal advice.



IP Enforcement Considerations

After Securing IP Rights, Enforce Them

Once you have secured your IP rights in the United States and other countries where you plan to conduct business (or have defensively registered your rights), you must actively enforce your rights to prevent theft of your IP rights. The ease of IPR enforcement depends on local law, the resources of the IP owner, the attitude of local officials, and many other factors. In the United States and many other countries, IP owners pursue infringement claims through civil litigation, and make criminal authorities aware of criminal IP violations, such as willful counterfeiting and piracy. It is important to seek proper legal advice on any issues related to IPR enforcement.

U.S. Customs and Border Protection

Once a company secures a trademark registration from the U.S. Patent and Trademark Office, or in the case of copyright, from the U.S. Copyright Office, the registration should be recorded with U.S. Customs and Border Protection (CBP). Recordation of a federally registered trademark or copyright significantly aids in the border enforcement of such rights. The recordation fee is \$190. An applicant wishing to record an intellectual property right with CBP may refer to the CBP web site for further information and for forms that may be used to complete a recordation. Information may be found at www.cbp.gov/xp/cgov/import/commercial_enforcemtn/ipr. Information about how to obtain IPR Border Enforcement Assistance also is available at that site.



Protect Your Small Business

Be vigilant.

Much of today's intellectual property theft occurs online-so monitor the Internet for potential counterfeiting in addition to your marketplace monitoring. You also may wish to monitor trade journals to learn about foreign markets or industry sectors being exploited by intellectual property thieves.

Learn More.

To learn more about protecting your intellectual property rights, please visit:

- www.stopfakes.gov/smallbusiness
The U.S. government site dedicated to small businesses.
- www.uspto.gov
The U.S. Patent and Trademark Office site, a comprehensive go-to source for intellectual property information.
- www.copyright.gov
The U.S. Copyright Office site with comprehensive information on copyright.
- www.cbp.gov
The U.S. Customs and Border Protection (CBP) site, with information on recordation of registered U.S. trademarks and copyrighted works with the CBP.

1-866-999-HALT to report IP theft.
- www.wipo.int
The web site of the World Intellectual Property Organization (WIPO), with information on the Patent Cooperation Treaty and the Madrid Protocol.

United States Patent and Trademark Office

Protect Your Small Business From IP Theft

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United States Patent and Trademark Office

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